

REMARKS

Claims 1 and 7 have been amended to recite that the combined weight percent of the radial block copolymer and the linear triblock copolymer is greater than about 20 wt%. Support for the foregoing amendments may be found in the Specification, page 3, lines 26-28 and page 3, Table 1. The preamble to claim 7 has been further amended to call for the transitional phrase "consisting essential of." The claimed components are now limited to those listed, and any that do not materially alter the basic characteristics of the composition.

The foregoing amendments add no new matter to the disclosure. Entry is requested.

Accordingly, upon entry hereof, claims 1-4, 6-9, 11-14 and 16-17 will be under consideration or reconsideration.

Applicants turn to the substance of the Action, in which objections and rejections have been advanced against the pending claims under 35 U.S.C. §§ 102(b) and 103(a).

Rejection under 35 U.S.C. § 102(b) or in the alternative § 103(a)

Consideration and reconsideration is requested of the rejection of claims 1-4, 6-9, 11-13 and 17 under 35 U.S.C. § 102(b), or in the alternative under § 103(a), as being unpatentable over European Patent No. 0368141 (hereinafter "Malcolm") is requested.

Currently, amended claim 1 is directed to a hot melt adhesive comprising (a) less than 15 wt % of a radial block copolymer component comprising $(PS-PI)_nX$ wherein PS is polystyrene and PI is polyisoprene, X is the residue of a multifunctional coupling agent used in the production of the radial block copolymer, and n is equal to or greater than 3 and represents the number of PS-PI arms appended to X, and wherein the styrene content of the radial block copolymer is from 25 wt % to about 50 wt %; (b) up to about 20 wt % of a linear triblock copolymer, (c) from about 30 to about 70 wt % of a tackifying resin, and (d) from about 10 wt % to about 20 wt % of a liquid plasticizer. The total wt% adds to 100 wt% of the

adhesive composition and the combined wt% of the radial block copolymer and the linear triblock copolymer is greater than about 20 wt%. The adhesive is suitable for use as an elastic attachment adhesive. Amended claim 7 is substantially similar to amended claim 1 but further limits the hot melt adhesive to consist essentially of components (a)–(d).

Anticipation under § 102(b) requires that all of the limitations of a claim be disclosed, expressly or inherently, in a single prior art references (M.P.E.P. § 2131).

Malcolm discloses that the total polymer content, the combined amounts of the radical block copolymer and the linear block copolymer, to be less about 15 wt% of the adhesive (Malcolm, page 6, lines 40–41). As disclosed in Table 6 of page 15, adhesives with less than 10 wt% of polymer results in a creep resistance of 5 %. In the same table, even a small incremental addition of polymer (total polymer greater than 10 wt%) results in an adhesive with a creep resistance of 30% (*Id.*). A mixture of radial and block copolymers are utilized in Table 7, however, the total content of the polymer is still less than 15 wt%: about 14 wt%. Thus, Malcolm discloses that the combined radical block copolymer and linear block copolymer content to be less than 15 wt% of the total adhesive.

In contrast, the instant invention, as described in the claims are directed to the total polymer content to be greater than about 20 wt%.

Accordingly, Malcolm does not disclose every limitation of claim 1 and 17, and therefore does not anticipate claims 1 and 17. Claims 2-4, 6-9 and 11-13 depend from claim 1, and are therefore patentable for at least all of the same reasons that claim 1 are patentable. Moreover, Malcolm fails to obviate claims 1 and 17.

In order to support a § 103(a) obviousness rejection, the Examiner must clearly articulate the reason(s) why the claimed invention would have been obvious. A proper *prima facie* case of § 103(a) obviousness requires, inter alia, that all claim limitations must be

considered when judging the patentability of a claim against the prior art.

The instant invention, as described in claims 1 and 17, is directed to an adhesive that requires the total polymer content to be greater than about 20 wt%. In contrast, Malcolm discloses an adhesive that requires the total polymer content to be less than 15 wt% (Malcolm, page 6, lines 40-41). Thus, Malcolm does not disclose or suggest a polymer content to be greater than 15 wt%, let alone greater than about 20 wt%. As disclosed by Malcolm sets out useful, preferred and most preferred radial block copolymer and block copolymer ranges in Table 1. However, Malcolm discloses that the total polymer content (combined radial block copolymer and block copolymer) is less than about 15 wt% of the adhesive (*Id.*). Accordingly, Malcolm fails to disclose or suggest each and every element of independent claims 1 and 17, and therefore does not establish a prima facie case of obviousness of claims 1 and 17. Claims 2-4, 6-9 and 11-13 depend from independent claim 1, and are therefore patentable for at least all of the same reasons that independent claim 1, and are patentable. Thus, withdrawal of the rejection of claims 1-4, 6-9, 11-13 and 17 under 35 U.S.C. § 102(b), or in the alternative under § 103(a), is requested.

Rejection under 35 U.S.C. § 103(a)

Consideration and reconsideration is requested of the rejection of claims 14 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Malcolm is requested.

Claims 14 and 16 depends from claim 1, where the adhesive requires the combined radial block copolymer and block copolymer content to be greater than about 20 wt%. At best, Malcolm teaches an adhesive with polymer content less of about 15 wt%. Thus, Malcolm teaches away from an adhesive with a polymer content greater than 15 wt%, let alone an adhesive with a polymer content of about 20 wt% or more. Withdrawal of the rejection of claims 14 and 16 under 35 U.S.C. § 103(a) is requested

Conclusion

Applicants believe that the foregoing constitutes a complete and full response to the Office Action. Accordingly, an early and favorable reconsideration of the rejections and an allowance of all of pending claims are earnestly solicited.

Respectfully submitted,

/Sun Hee Lehmann/

Sun Hee Lehmann
Reg. No. 58,338

October 14, 2011

Henkel Corporation
10 FINDERNE AVENUE
BRIDGEWATER, NEW JERSEY 08807
TELEPHONE NO.: 908-575-6869